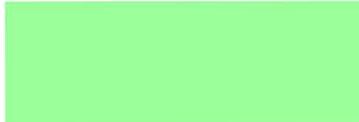


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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Service  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



DATE: NOV 08 2013

Office: VERMONT SERVICE CENTER

FILE: [Redacted]

IN RE: Applicant: [Redacted]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish he was eligible for late registration. The director also denied the application because the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts that he has been working at [REDACTED] since his arrival in the United States on January 3, 2001. The applicant states that on May 11, 2011, he provided a copy of his El Salvadoran identification. The applicant submits additional evidence in an attempt to establish his continuous residence and continuous physical presence in the United States.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Secretary may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary

- departure, or any relief from removal which is pending or subject to further review or appeal;
- (iii) The applicant is a parolee or has a pending request for reparole; or
- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2015, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. The record reflects that the applicant filed his application on March 21, 2012.

At the time the applicant filed his TPS application, he submitted a statement indicating that he did not apply for TPS during the initial registration period due to his "complete lack of knowledge when it comes to the immigration laws of the United States."

On July 20, 2012, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, only provided documentation relating to his Form I-765, Application for Employment Authorization.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on February 11, 2013.

On appeal, the applicant neither addresses the finding of his ineligibility as a late registrant nor provides any evidence to establish his eligibility as a late registrant. The provisions for late registration were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period (March 9, 2001, to September 9, 2002) for the various circumstances specifically identified in the regulations. The applicant has not submitted evidence that he has met any of the provisions outlined in 8 C.F.R. § 244.2(f)(2). Further, there is no provision to waive the registration requirement based on the applicant's assertion that he lacks knowledge of the immigration laws. Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second and third issues to be addressed are whether the applicant has established his continuous residence in the United States since February 13, 2001 and his continuous physical presence in the United States since March 9, 2001.

Along with his TPS application, the applicant submitted:

- A copy of his El Salvadoran identification card issued on September 3, 2007 in Los Angeles, California.
- Uncertified Form 1040, U.S. Individual Income Tax Return, for 2006 through 2011.
- Wage and Tax Statements, Form W-2, for 2001, 2002 and from 2006 through 2011.
- Earnings statements from [REDACTED] for the periods ending June 29, 2001 and November 2, 2001
- Several money grams dated August 3, 2001 through December 8, 2001.
- A letter written in the Spanish language dated May 18, 2005.
- Copies of birth certificates of children born May 23, 1999, January 20, 2003 and March 20, 2005 in Los Angeles, California.
- A letter dated March 12, 2012, from the bookkeeper for [REDACTED] who attests to the applicant's employment at the company since 2001.
- A Certificate of Completion for Certificate Professional Food Manager issued on February 16, 2012.

On July 20, 2012, the applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant, in a handwritten statement, indicated that he had his work permit card and provided a copy of a Form I-797, Notice of Action, relating to approval of his Form I-765 under category C19.

The director determined that the evidence submitted was not sufficient as the letter from [REDACTED] only attested to the applicant's employment "in the year 2001," and that no evidence had been provided to establish residence and physical presence during 2003 and 2004. The director noted that a grant of employment authorization did not equate to a grant of TPS. In denying the application, the director concluded that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS.

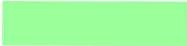
On appeal, the applicant submits a copy of his wage and tax statement for 2012 along with additional copies of his wage and tax statements for 2001 and 2002.

The documents submitted throughout the application process are not sufficient to establish continuous residence since February 13, 2001 and continuous physical presence since March 9, 2001 as:

- The letter from [REDACTED] has little evidentiary weight or probative value, as it does not conform to the basic requirements specified in 8 C.F.R. §244.9(2)(i). Specifically, the letter did not provide, the exact period(s) of employment, and the period(s) of layoff, if any. The Form W-2 only shows that the applicant earned wages in 2001; it does not specify the period in which those wages were earned. The earnings statements only establish employment with [REDACTED] since June 2001.
- The tax returns submitted by the applicant can be given little weight as they are not accompanied by a certification of filing with the Internal Revenue Service as required by 8 C.F.R. § 244.9(a)(2)(i).
- The letter dated May 18, 2005 was not accompanied by the required English translation. Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3).
- The birth certificates of the children born in 1999 and 2003 have no probative value as the applicant's name was not listed on the certificates.
- The applicant has not provided any evidence to support a claim of residence and physical presence in the United States for 2003, 2004 and 2005.

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The applicant has, therefore, failed to establish that he has met

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*NON-PRECEDENT DECISION*

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the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will also be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.